

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:12-CV-72-F

JAMES A. HAMPTON, SR.,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
DARRELL CLAYTON, <i>et al.</i> ,)	
)	
Defendants.)	

This matter is before the court on the Memorandum and Recommendations (“M&R”) [DE-3; DE-5] of United States Magistrate Judge Kimberly A. Swank.

The *pro se* Plaintiff initiated this action by filing an application to proceed in forma pauperis on April 25, 2012, and attaching a complaint. In the complaint, Plaintiff appears to allege violations of his Fourteenth Amendment rights pursuant to 42 U.S.C. § 1983, although he does not enumerate those rights.

On October 29, 2013, Judge Swank issued an Order and M&R [DE-3] allowing Plaintiff’s application to proceed in forma pauperis, but recommending dismissal of all Plaintiff’s claims against Defendants Judge Darrell Clayton, Judge Michael Paul, and Magistrate S.C. Hardison on the basis of judicial immunity. As to the remaining claims and defendants,¹ Judge Swank observed that the complaint failed to adequately plead any claims.² She therefore ordered

¹ The remaining defendants include Susan Davenport, Tristan-Laurent D. Ward, Nancy Conner, Pamela M. Hardison, Travis Cowan, Tonya Leggett, Tim Manning, and Craig Freeman.

² Judge Swank observed that Plaintiff appears to be alleging that the defendants denied him access to the courts and adequate medical care, but Plaintiff has failed to set forth any facts in support of his claims, and has failed to indicate whether he is suing the defendants in their official or individual

Plaintiff to particularize his complaint on or before November 19, 2013. She explicitly warned that the failure to file a new version of the complaint by that date would result in the a recommendation that this case be dismissed as frivolous.

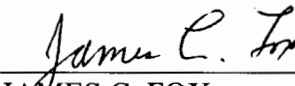
Plaintiff failed to file a particularized complaint by that date, or respond in any fashion to Judge Swank's October 29, 2013 Order and M&R [DE-3]. Judge Swank accordingly issued another M&R [DE-5], recommending that Plaintiff's claims against Defendants Susan Davenport, Tristan-Laurent D. Ward, Nancy Conner, Pamela M. Hardison, Travis Cowan, Tonya Leggett, Tim Manning, and Craig Freeman be dismissed for failure to state a claim, or in the alternative, for failure to prosecute or comply with the court's October 29, 2013, Order. Over a month has passed since the issuance of Judge Swank's latest M&R, and Plaintiff has yet to file a response.

After an independent and thorough review of the Magistrate Judge's M&Rs [DE-3; DE-5] and a review of the record, the court concludes that both M&Rs are correct and in accordance with the law. Accordingly, the court hereby ADOPTS the M&Rs [DE-3; DE-5]. Plaintiff's claims against Defendants Judge Darrell Clayton, Judge Michael Paul, and Magistrate S.C. Hardison are DISMISSED for being barred by judicial immunity, and his claims against Defendants Susan Davenport, Tristan-Laurent D. Ward, Nancy Conner, Pamela M. Hardison, Travis Cowan, Tonya Leggett, Tim Manning, and Craig Freeman are DISMISSED for failure to state a claim, or in the alternative, for failure to prosecute. The Clerk of Court is DIRECTED to close this case.

capacities.

SO ORDERED.

This 6th day of January, 2014.



JAMES C. FOX
Senior United States District Judge